

UNITED STATES DISTRICT COURT
for the Western District of Pennsylvania

USA,

v.
Frederick Banks,
Defendant.

15CR168

FILED

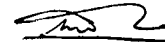
MAY - 1 2018

CLERK U.S. DISTRICT COURT
WEST DIST. OF PENNSYLVANIANOTICE TO COUNSEL AND US PROBATION
OF DEFENDANT'S PRE-PSF GUIDELINE CALCULATION

Defendant Frederick Banks, an American Indian filed this Notice to Counsel and US Probation of Defendant's Pre-PSF Guideline Calculation and represents;

1. The superseding Indictment charged Defendant with 7 counts. Counts 2-6 Defendant previously served concurrent 14 months sentences on followed by 6 months halfway house in one case. See USA v. Banks 03-CR-245 (WPPA) and USA v. Banks, 04-CR-176 (WPPA) at violation proceedings. USSC § 4A1.2(a)(1) states "The term 'prior sentence' means any sentence previously imposed upon adjudication of guilt... for conduct not part of the instant offense." Since Counts 2-6 in this case is conduct that is part of the instant offense those prior convictions do not count and as a result Defendant is in a Category I Criminal History.
2. The superseding Indictment stated that Defendant "attempted to withdraw \$1264,000 from the account" see at page 5. Thus, that is the intended loss. The lead counts are Counts 2-5 and under § 2B1.1 the offense level is 19, 30-37 months. 24 months is added pursuant to 18 USC § 1028A for Count 6 totaling 54-61 months. The offense level is reduced by 6 points pursuant to § 2X1.1 (attempts & solicitation) or 36-42 months minus 12 months good time or 26-32 months. Because I have already served 33 months (I was arrested & confined on 8/17/2015 I have already served more time than the case carries. And Defendant would receive 24 months off for RDAP & halfway house, 36 months off for collateral consequences at USA v. Nesbitt (2014) aka collateral consequences, and another downward departure for alleged diagnosed mental health issues. As a result Defendant has already served more than twice the time this case carries yet he is still unlawfully incarcerated in violation of Due Process!!! US Probation is notified to consider this calculation when computing the Guidelines. Defendant also provides to the under record statement of violation counsel Patrick K. Nightingale who stated "he has done very little pecuniary harm."

Respectfully Submitted,



Frederick Banks #12
110 5th Ave #0063533
Youngstown, Ohio 44503

Defendant

Hamilton Brown

www.facebook.com/hamiltonbrown161

CERTIFICATE OF SERVICE

I hereby certify that on this 25th day of April, 2018 I served a true and correct copy of the foregoing by mail delivery and ECF/CM notification upon the following by filing a copy with the Clerk, US District Court

Robert Cestari, AUSA
Shawn Sweeney, AUSA
Rebecca Essig
Debra Stair
4000 US Courthouse
700 Grant Street
Pittsburgh, PA 15219

US Probation Office
US Courthouse, 3rd floor
700 Grant Street
Pittsburgh, PA 15219

Marvin Miller, ESQ
2324 McKing Blvd
Pittsburgh, PA 15235



Frederick Banks

1.

Defendant's 1996 conviction is not counted pursuant to USG 84A.1005 because it had been over 15 years since he successfully completed supervised release

2.

Defendant notes that venue is not proper in this court because the Bank at One First Niagara is owned by Key Bank who used Ohio Fed and NY Fed not PA Fed. The attempted alleged transfers never touched this PA district. As a result venue is lacking for Counts 2-6. Additionally, venue is not

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Proper for Court I error in this Court because the Craigslist ad was allegedly placed in Florida Craigslist not Pittsburgh/PA Craigslist. Since the action/offense was allegedly committed in Tampa Florida by the placing of the Tampa, FL Craigslist ad that is where venue is proper. Defendant notes that tellingly the call that uncovered the ad originated in Florida and the intrastate they were not made to or from PA. Defendant also notifies the Court that he still does not have all of the discovery in this case. A complete Rule 16 violation.